

## Fact Sheet

# Pesticides Act and Ontario Regulation 63/09 Private Land and Woodlot Owners

April 2011

Ontario's cosmetic pesticides ban took effect April 22, 2009. Ban requirements are detailed in Ontario Regulation 63/09 (O. Reg. 63/09) under the Pesticides Act. This factsheet provides information for private land owners and woodlot owners/operators who wish to protect a natural resource. Woodlots are properties that are not part of an agricultural operation (i.e. a farm woodlot).

### Classification of pesticides

A pesticide product must be registered by Health Canada's Pest Management Regulatory Agency (PMRA) and classified by the Ministry of the Environment (MOE) to be sold and used in Ontario. Products must be used according to label directions and for purposes allowed under the ban.

Using home-made pesticides is illegal. Home-made pesticides have not been evaluated and registered by the PMRA and, therefore, may pose a risk to you, your property and the environment. A PMRA brochure provides information on the risks associated with using [homemade pesticides](#).

Ontario has a pesticide classification system consisting of [eleven classes](#):

- Class 1 is products intended for manufacturing purposes.
- Class 2, 3 and 4 are restricted or commercial products.
- Class 5 and 6 are domestic products intended for household use.
- Class 7 is controlled sale products (domestic or restricted).
- Class 8 is domestic products that are banned for sale and use.
- Class 9 pesticides are ingredients in products for use only under exceptions to the ban.
- Class 10 pesticides are ingredients in products for the poisonous plant exception.
- Class 11 pesticides are ingredients in products for cosmetic uses under the ban.

### Allowed pesticide uses

Under the ban, private land and woodlot owners/operators can use Class 5 or 6 products containing Class 11 pesticides (biopesticides and certain lower risk pesticides) to manage pests on their land. Refer to the [Managing Pests in Lawns and Gardens](#) fact sheet for additional information.

Private land and woodlot owners/operators can hire a licensed exterminator authorized to use Class 3 or 4 products containing Class 11 pesticides on their land. Private land and woodlot owners/operators and licensed exterminators are required to post a non-residential area notice sign ([sign E](#)) to notify visitors and neighbours that Class 11 pesticides have been used.

Private land or woodlot owners/operators who hold the landscape exterminator licence or a forestry exterminator licence can purchase and apply Class 2, 3, 4, 5 or 6 products containing Class 11 pesticides on their land to control insect, weeds and disease pests. Note: A landscape licensed exterminator is only authorized to use pesticides in treed areas not exceeding one hectare and to maintain turf and ornamental plantings. A forestry licensed exterminator is authorized to use pesticides for purposes of forestry in a treed area one hectare or larger.

### **Controlled sale (Class 7) products**

Beginning April 22, 2011, Class 7 products will not be readily accessible on store shelves and consumers must ask for assistance if purchasing these products. Licensed vendors must continue to give consumers a handout advising that certain uses are prohibited under the ban.

Domestic products in Class 7 have both cosmetic and non-cosmetic uses. Under the ban, the cosmetic uses of these products are not allowed. For example:

- Class 7 products cannot be used on driveways, patios, lawns or gardens to control weeds or other vegetation as these are cosmetic uses, but can be used to control plants poisonous to humans by touch (e.g., poison ivy, giant hogweed).
- Class 7 products cannot be used to control lawn or garden pests as these are cosmetic uses but can be used to control biting or stinging pests as directed on the label. Class 7 products can be used inside the home or immediately around the outside perimeter to control indoor pests as directed on the label.

### **Arboriculture exception**

Private land and woodlot owners/operators and landscape licensed exterminators can use Class 9 pesticides to maintain the health of trees. The following uses are permitted under the arboriculture exception if the pesticide is used to maintain the health of the tree:

- A private land or woodlot owner/operator injecting a Class 5, 6 or 7 product containing a Class 9 pesticide into a tree.
- A landscape licensed exterminator injecting a Class 2, 3, 4, 5, 6 or 7 product containing a Class 9 pesticide into a tree.
- A landscape licensed exterminator applying any product containing a Class 9 pesticide directly to a tree.

- A private land or woodlot owner/operator applying a Class 5, 6 or 7 product containing a Class 9 pesticide directly to a tree.

A person injecting a Class 2, 3 or 4 product containing a Class 9 pesticide into a tree or applying any pesticide containing a Class 9 pesticide directly to a tree to maintain the tree's health must first obtain a written opinion from a [professional tree care specialist](#) stating that the use of the pesticide, as part of an integrated pest management strategy, is necessary to maintain the health of the tree. **Note:** Pests damaging the fruit of a tree would not impact the health of the tree.

In addition, the person must provide advance written notice to the occupants of all residential properties abutting the area where the tree is located. Warning signs indicating that a Class 9 pesticide has been used must also be posted.

**Note:** The tree is considered to be the application area.

This written notice must be provided one to seven days in advance of the application and includes:

- Date of the extermination
- Description of the application area
- Pest to be exterminated
- Name of the pesticide and its registration number
- Ingredient of the pesticide to be used
- Contact phone number of a representative of the person who will use the pesticide.

### **Forestry use exception**

Class 9 pesticides can be used under the forestry exception to protect trees from pests and to control competing vegetation. O. Reg. 63/09 defines "forestry" and "forest" as:

- Forestry means activities relating to any of the following: harvesting, renewing, maintaining or establishing a forest, protecting forest resources derived from a forest, and accessing a forest for these purposes.
- Forest means a treed area of land that is one hectare in size or larger and is not used for producing an agricultural crop as part of an agricultural operation. This definition distinguishes which exceptions (forestry, agriculture or arboriculture) apply to different types of treed areas. It also helps distinguish which type of exterminator's licence is appropriate.

A private land or woodlot owner/operator who holds a forestry exterminator licence can use a Class 2, 3, 4, 5, 6 or 7 product containing a Class 9 pesticide for forestry purposes or he or she can hire a person holding a forestry exterminator licence to use a Class 9 pesticide under the forestry exception.

### **Other legislative requirements exception**

Class 9 pesticides can be used for the purpose of complying with a requirement under [other federal or provincial legislation](#). For example, a weed inspector has authority to issue an order to destroy a noxious weed, which is negatively affecting agricultural land, as listed in [Regulation 1096](#) under the [Weed Control Act](#). The written order will list the weed(s) to be controlled and the exact location to be treated. A person has the responsibility to ensure that before using a Class 9 pesticide for this excepted use, he or she is complying with the written order. This exception only applies if using a Class 9 pesticide is the only effective and practical means of complying with the order.

To obtain contact information for the weed inspector in your area get in touch with your local municipality, region, district or county.

### **Natural resources exception**

Class 9 pesticides can be used to manage, protect, establish or restore a natural resource provided that no other exception to the ban applies. For example, if the natural resource is a treed area and is one hectare or larger, the forestry exception may apply if the land is used for forestry purposes. In such a case a forestry exterminator licence is required.

A private land or woodlot owner/operator may use a Class 5, 6 or 7 product containing a Class 9 pesticide on his or her land under the natural resources exception or hire a landscape licensed exterminator to use a Class 2, 3, 4, 5, 6 or 7 product containing a Class 9 pesticide. The person who intends to use the pesticide must apply to the appropriate director of the Ministry of Natural Resources (MNR) to receive a written opinion that states that the use of a Class 9 pesticide is necessary for one of the following:

- To control an invasive species that may be detrimental to the health of a person, the environment or the economy of Ontario.
- To benefit a species of plant or animal native to Ontario, through protecting the species or its habitat, or establishing, restoring or managing the species' habitat.
- To protect or restore a rare ecosystem or its components.

Class 9 pesticides must be used in accordance with integrated pest management (IPM) principles. IPM emphasizes pest prevention, and considers all options before deciding on the most effective, environmentally friendly and cost effective means of managing a pest problem and reducing reliance on pesticides.

For further information or to apply for a written opinion contact the local [MNR](#) district office or MNR's public contact centre at 1-800-667-1940.

### **Proper disposal**

[Class 8](#) products are banned for use and should be taken to a local municipal hazardous or special waste collection site for proper disposal. To find the closest waste collection location, contact your municipality or go to [Stewardship Ontario](#) for a list of waste collection sites and check if they handle pesticide waste. Empty containers of Class 5, 6 or 7 products can be wrapped in newspaper and disposed of with other household garbage.

### **Compliance and enforcement**

To report non-compliance of pesticide use, contact your [MOE District Office](#) during regular business hours. After business hours, call the MOE's Pollution Hotline at 1-866-MOE-TIPS (1-866-663-8477).

### **For more information:**

Visit the MOE web site for additional information on topics such as:

- [Pesticide signage](#)
- [Pesticide classes and database](#)
- Technical Guidance Pesticides Act and Ontario Regulation 63/09 Licensed Landscape Exterminator
- Technical Guidance Pesticides Act and Ontario Regulation 63/09 Agriculture
- Technical Guidance Pesticides Act and Ontario Regulation 63/09 Forestry

A number of fact sheets and suggestions on caring for lawns and gardens are available on [MOE's website](#) for specific audiences.

Direct questions about the cosmetic pesticides ban to MOE's Public Information Centre at 1-800-565-4923 or 416-325-4000 (press 0 to talk to an information officer).

This fact sheet is for information only and is not legal advice. Interested parties are advised to refer to the Pesticides Act and O. Reg. 63/09 to address specific circumstances.

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